

Order

Michigan Supreme Court
Lansing, Michigan

May 18, 2018

Stephen J. Markman,
Chief Justice

156411

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 156411
COA: 329845
Wayne CC: 15-002167-FH

TYWON DEON HAMILTON,
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the July 6, 2017 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE those parts of the Court of Appeals judgment addressing whether the defendant preserved his challenge to the admissibility of hearsay testimony under MRE 803A on the ground that the child complainant's disclosure to the declarant was not the first corroborative statement and whether MRE 803A's notice requirement was satisfied. Because the record establishes that defense counsel articulated a specific objection on hearsay grounds, the Court of Appeals erred in holding that the issue was unpreserved. We REMAND this case to that court for reconsideration of the hearsay issue under the standard for preserved evidentiary error, see *People v Burns*, 494 Mich 104 (2013), and for consideration of whether (1) the prosecutor "made known" to the defendant "the particulars" of the MRE 803A statement, and (2) the defendant was given a "fair opportunity" to prepare to meet the statement, as required by MRE 803A. On remand, the Court of Appeals shall determine whether the testimony at issue was erroneously admitted under MRE 803A, and if so, whether, upon an examination of the entire cause, it is more probable than not that the preserved error was outcome determinative. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 18, 2018

Clerk